

**FISCAL YEAR 2013  
MONITORING REPORT  
ON THE  
WEST VIRGINIA DIVISION OF  
REHABILITATION SERVICES  
VOCATIONAL REHABILITATION  
PROGRAM**



**U.S. DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND  
REHABILITATIVE SERVICES  
REHABILITATION SERVICES ADMINISTRATION**

**SEPTEMBER 24, 2013**

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## **SECTION 1: EXECUTIVE SUMMARY**

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### **Background**

Section 107 of the Rehabilitation Act of 1973, as amended (Rehabilitation Act), requires the Commissioner of the Rehabilitation Services Administration (RSA) to conduct annual reviews and periodic on-site monitoring of programs authorized under Title I of the Rehabilitation Act to determine whether a state vocational rehabilitation (VR) agency is complying substantially with the provisions of its State Plan under section 101 of the Rehabilitation Act and with the evaluation standards and performance indicators established under Section 106. In addition, the Commissioner must assess the degree to which VR agencies are complying with the assurances made in the State Plan Supplement for Supported Employment (SE) Services under Title VI, part B, of the Rehabilitation Act.

Through its monitoring of the VR and SE programs administered by the West Virginia Division of Rehabilitation Services (WVDRS) in federal fiscal year (FY) 2013, RSA:

- reviewed the VR agency's progress toward implementing recommendations and resolving findings identified during the prior monitoring cycle (FYs 2007 through 2010);
- reviewed the VR agency's performance in assisting eligible individuals with disabilities to achieve high-quality employment outcomes;
- recommended strategies to improve performance and required corrective actions in response to compliance findings related to three focus areas, including:
  - organizational structure requirements of the designated state agency (DSA) and the designated state unit (DSU);
  - transition services and employment outcomes for youth with disabilities; and
  - the fiscal integrity of the VR program;
- identified emerging practices related to the three focus areas and other aspects of the VR agency's operations; and
- provided technical assistance (TA) to the VR agency to enable it to enhance its performance and to resolve findings of noncompliance.

The nature and scope of this review and the process by which RSA carried out its monitoring activities, including the conduct of an on-site visit from March 4, 2013 through March 7, 2013, is described in detail in the FY 2013 Monitoring and Technical Assistance Guide for the Vocational Rehabilitation Program located at: [FY 2013 Monitoring and Technical Assistance Guide](#) for the Vocational Rehabilitation Program or as a [PDF](#).

### **Emerging Practices**

Through the course of its review, RSA collaborated with WVDRS, the State Rehabilitation Council (SRC), the Technical Assistance and Continuing Education (TACE) center and other stakeholders to identify the emerging practices below implemented by the agency to improve the performance and administration of the VR program.

- **Geographic Information System (GIS):** WVDRS utilizes GIS software that compiles U.S. census information along with WVDRS client data to identify potential unserved consumers with minority backgrounds resulting in administrative cost savings for its outreach efforts.
- **Student Transition to Employment Project (STEP):** STEP has trained school system teachers and aides to become CRPs with WVDRS. This has enabled individuals with disabilities who are graduating from high school to receive job placement and training services from the teacher or aide who worked with them throughout their high school years.

A more complete description of these practices can be found in Section 3 of this report.

## **Summary of Compliance Findings**

RSA's review resulted in the identification of compliance findings in the focus areas specified below. The complete findings and the corrective actions that WVDRS must undertake to bring itself into compliance with pertinent legal requirements are contained in Section 6 of this report.

- WVDRS improperly used the construction authority to assist a CRP to build a warehouse for a contract the CRP was awarded.
- WVDRS entered into contracts with a schedule of advance payments and did not implement and monitor methods and procedures for payment that minimize the time elapsing between the transfer of funds and disbursement by the recipient.
- WVDRS did not accurately report financial data related to the transfer of VR SSA program income to the SILS program during FYs 2009 through FY 2012.
- WVDRS unallowably disbursed program income earned in the VR program to CRPs for the provision of extended employment services (ESES). In addition, WVDRS has not disbursed program income prior to requesting additional cash drawdowns from its federal VR award for FYs 2009 through 2012.

## **Development of the Technical Assistance Plan**

RSA will collaborate closely with WVDRS and the Region 3 TACE to develop a plan to address the TA needs identified by WVDRS in Appendix A of this report. RSA, WVDRS and Region 3 TACE will conduct a teleconference within 60 calendar days following the publication of this report to discuss the details of the TA needs, identify and assign specific responsibilities for implementing TA and establish initial timeframes for the provision of the assistance. RSA, WVDRS and Region 3 TACE will participate in teleconferences at least semi-annually to gauge progress and revise the plan as necessary.

## **Review Team Participants**

Members of the RSA review team included David Jones and Christyne Cavataio (VR Unit); Craig McManus (Fiscal Unit); Charles Sadler (TA Unit); Julya Doyle (Data Collection and Analysis Unit); and Timothy Beatty (Independent Living Unit). Although not all team members

participated in the on-site visit, each contributed to the gathering and analysis of information, along with the development of this report.

## **Acknowledgements**

RSA wishes to express appreciation to the representatives of WVDRS, WorkForce West Virginia, and West Virginia Department of Education and the Arts (WVDEA) for the cooperation and assistance extended throughout the monitoring process. RSA also appreciates the participation of the SRC, the Client Assistance Program and advocates, and other stakeholders of the VR program.

## SECTION 2: PERFORMANCE ANALYSIS

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This analysis is based on a review of the programmatic and fiscal data contained in Tables 2.1 and 2.2 below and is intended to serve as a broad overview of the VR program administered by WVDRS. It should not be construed as a definitive or exhaustive review of all available agency VR program data. As such, the analysis does not necessarily capture all possible programmatic or fiscal trends. In addition, the data in Table 2.1 measure performance based on individuals who exited the VR program during federal fiscal years 2007 through 2011. Consequently, the table and accompanying analysis do not provide information derived from WVDRS open service records including data related to current applicants, individuals who have been determined eligible and those who are receiving services. WVDRS may wish to conduct its own analysis, incorporating internal open caseload data, to substantiate or confirm any trends identified in the analysis.

### Performance Analysis

#### VR Program Analysis

**Table 2.1**  
**WVDRS Program Performance Data for FY 2007 through FY 2011**

	Number Percent or Average	2007	2008	2009	2010	2011	Change from 2007 to 2011	Agency Type 2011
<b>All Individual Cases Closed</b>								
TOTAL CASES CLOSED	Number	4,509	4,464	4,537	5,227	5,516	1,007	273,950
	Percent	100.0%	100.0%	100.0%	100.0%	100.0%	22.3%	100.0%
Exited as an applicant	Number	437	511	578	753	752	315	45,694
	Percent	9.7%	11.4%	12.7%	14.4%	13.6%	72.1%	16.7%
Exited during or after trial work experience/extended evaluation	Number	1	2	7	4	2	1	1,910
	Percent	0.0%	0.0%	0.2%	0.1%	0.0%	100.0%	0.7%
TOTAL NOT DETERMINED ELIGIBLE	Number	438	513	585	757	754	316	47,604
	Percent	9.7%	11.5%	12.9%	14.5%	13.7%	72.1%	17.4%
Exited without employment after IPE, before services	Number	69	48	46	49	55	-14	8,173
	Percent	1.5%	1.1%	1.0%	0.9%	1.0%	-20.3%	3.0%
Exited from order of selection waiting list	Number	1,048	10	0	0	0	-1,048	2,978
	Percent	23.2%	0.2%	0.0%	0.0%	0.0%	-100.0%	1.1%
Exited without employment after eligibility, before IPE	Number	433	1,390	1,200	1,345	1,294	861	62,559
	Percent	9.6%	31.1%	26.4%	25.7%	23.5%	198.8%	22.8%
TOTAL EXITED AFTER ELIGIBILITY, BUT PRIOR TO RECEIVING SERVICES	Number	1,550	1,448	1,246	1,394	1,349	-201	73,710
	Percent	34.4%	32.4%	27.5%	26.7%	24.5%	-13.0%	26.9%
Exited with employment	Number	1,587	1,773	1,867	2,169	2,537	950	80,711
	Percent	35.2%	39.7%	41.2%	41.5%	46.0%	59.9%	29.5%
Exited without employment	Number	934	730	839	907	876	-58	71,925
	Percent	20.7%	16.4%	18.5%	17.4%	15.9%	-6.2%	26.3%
TOTAL RECEIVED SERVICES	Number	2,521	2,503	2,706	3,076	3,413	892	152,636
	Percent	55.9%	56.1%	59.6%	58.8%	61.9%	35.4%	55.7%
EMPLOYMENT RATE	Percent	62.95%	70.83%	68.99%	70.51%	74.33%	18.08%	52.88%

	<b>Number Percent or Average</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>Change from 2007 to 2011</b>	<b>Agency Type 2011</b>
<b>All Individual Cases Closed</b>								
Transition age youth	Number	2,603	2,407	2,325	2,371	2,426	-177	97,282
	Percent	57.7%	53.9%	51.2%	45.4%	44.0%	-6.8%	35.5%
Transition aged youth employment outcomes	Number	944	955	895	872	910	-34	29,062
	Percent	59.5%	53.9%	47.9%	40.2%	35.9%	-3.6%	36.0%
Competitive employment outcomes	Number	1,445	1,518	1,560	2,086	2,504	1,059	76,087
	Percent	91.1%	85.6%	83.6%	96.2%	98.7%	73.3%	94.3%
Supported employment outcomes	Number	67	113	102	98	115	48	10,480
	Percent	4.2%	6.4%	5.5%	4.5%	4.5%	71.6%	13.0%
Average hourly wage for competitive employment outcomes	Average	\$11.04	\$11.48	\$12.09	\$11.32	\$11.69	\$0.66	\$11.22
Average hours worked for competitive employment outcomes	Average	37.0	36.8	36.7	34.5	34.6	-2.4	31.4
Competitive employment outcomes at 35 or more hours per week	Number	1,169	1,215	1,212	1,426	1,702	533	39,622
	Percent	73.7%	68.5%	64.9%	65.7%	67.1%	45.6%	49.1%
Employment outcomes meeting SGA	Number	1,272	1,394	1,433	1,615	1,942	670	48,900
	Percent	80.2%	78.6%	76.8%	74.5%	76.5%	52.7%	60.6%
Employment outcomes with employer-provided medical insurance	Number	779	810	804	795	1,028	249	19,640
	Percent	49.1%	45.7%	43.1%	36.7%	40.5%	32.0%	24.3%

## Positive Trends

As shown in Table 2.1, WVDRS demonstrated several positive trends during the five-year period between federal FYs 2007 and 2011, particularly with regard to individuals exiting the program with employment outcomes. During this period of time, the number and percent of individuals who achieved employment outcomes increased from 1,587 (35.2 percent) to 2,537 (46 percent), above the 29.5 percent national combined agency average. In addition, the employment rate during the same time increased by 18 percent from 63 percent to 74.3 percent. This percent is higher than the 52.9 percent national combined agency average.

RSA refers to the following characteristics of an employment outcome from the above table as indicators of the quality of that employment outcome: average hourly wage for competitive employment outcomes, average hours worked for competitive employment outcomes, competitive employment outcomes at 35 or more hours per week, employment outcomes meeting substantial gainful activity (SGA), and employment outcomes with employer-provided medical insurance. WVDRS' percentages in these categories are higher in FY 2011 than the national combined agency average. Specifically, the average hours worked for competitive employment outcomes for WVDRS was 34.6 hours in FY 2011, compared to the national combined average of 31.4 hours; the percent of WVDRS' total employment outcomes who achieved competitive employment outcomes working 35 hours or more per week was 67.1 percent in FY 2011, compared to the national combined agency average of 49.1; and the percentage of employment outcomes that met SGA was 76.5 percent in FY 2011, compared to the national combined agency average of 60.6 percent. While the percentage of employment outcomes with employer-provided medical insurance decreased from 49.1 percent in FY 2007 to

40.5 percent in FY 2011, this is still higher than the 24.3 percent national combined agency average.

Over the last five years, the number and percentage of individuals who exited the VR system after eligibility determination, but prior to receiving services, have decreased over the last five years from 1,550 (34.4 percent) to 1,349 (24.5 percent). Additionally, in FY 2011, 13.7 percent of total cases closed by WVDRS were for individuals who were not determined eligible. This percentage of individuals was lower than the 17.4 percent national combined agency average.

### **Trends Indicating Potential Risk to the Performance of the VR Program**

Over the last five years the number and percent of overall cases closed who were transition-age youth decreased from 2,603 (57.7 percent) to 2,426 (44 percent). In FY 2011, this was still higher than the national combined agency average at 35.5 percent. In addition, the percent of transition-age youth who exited with employment outcomes compared to the general population has also decreased over the last five years from 59.5 percent to 35.9 percent.

During FYs 2008 and 2009, the percentage of individuals closed with competitive employment outcomes decreased to 85.6 percent and 83.6 percent of the total employment outcomes. In addition, the number and percent of individuals who exited with SE outcomes has been low over the last five years, ranging as high as 6.4 percent in FY 2008 to a low of 4.2 percent in FY 2007. In FY 2011, the percent of individuals with SE was lower at 4.5 percent compared to the 13 percent national combined agency average.

### **Fiscal Analysis**

**Table 2.2**  
**WVDRS Fiscal Performance Data for FY 2007 through FY 2011**

<b>VR Fiscal Profile</b>	<b>Quarter</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Grant amount per MIS	4th	\$25,539,997	\$25,312,666	\$25,912,097	\$46,192,392	\$47,955,763
	Latest/ Final*	25,539,997	25,312,666	25,912,097	46,192,392	38,009,842
Total outlays	4th	30,541,043	24,815,458	23,853,865	30,548,382	17,556,964
	Latest/ Final*	36,060,025	37,425,095	36,438,011	58,694,272	48,297,131
Total unliquidated obligations	4th	4,916,739	9,418,858	12,054,663	21,127,191	35,478,376
	Latest/ Final*	0	0	0	0	0
Federal Share of Total Outlays	4th	20,171,792	12,745,472	13,454,212	18,538,351	7,269,675
	Latest/ Final*	25,539,997	25,312,666	25,912,097	46,192,392	38,009,842
Federal share of unliquidated obligations	4th	4,916,739	9,418,858	12,054,663	21,127,191	35,478,376
	Latest/ Final*	0	0	0	0	0
Total federal share	4th	\$25,088,531	\$22,164,330	\$25,508,875	\$39,665,542	\$42,748,051
	Latest/ Final*	25,539,997	25,312,666	25,912,097	46,192,392	38,009,842

<b>VR Fiscal Profile</b>	<b>Quarter</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Recipient funds	4th	10,310,317	12,010,031	10,310,317	12,010,031	10,287,289
	Latest/ Final*	10,310,317	12,010,031	10,310,317	12,501,880	10,287,289
Recipient share of unliquidated obligations	4th	0	0	0	0	0
	Latest/ Final*	0	0	0	0	0
Agency actual match (total recipient share)	4th	10,310,317	12,010,031	10,310,317	12,010,031	10,287,289
	Latest/ Final*	10,310,317	12,010,031	10,310,317	12,010,031	10,287,289
Agency required match	4th	5,459,456	3,449,537	3,641,356	5,017,368	1,967,523
	Latest/ Final*	6,912,350	6,850,823	7,013,058	12,501,880	10,287,289
Over/under match	4th	(4,850,861)	(8,560,494)	(6,668,961)	(6,992,663)	(8,319,766)
	Latest/ Final*	(3,397,967)	(5,159,208)	(3,297,259)	0	0
MOE **	4th					
	Latest/ Final*			10,310,317	12,010,031	10,287,289
Unobligated funds qualifying for carryover	4th	451,466	3,148,336	403,222	6,526,850	5,207,712
	Latest/ Final*	0	0	0	0	0
Total program income realized	4th	2,072,396	936,590	1,299,618	1,093,775	1,002,609
	Latest/ Final*	2,072,396	936,589	1,299,618	1,093,775	1,002,609
Total indirect costs	4th	4,649,813	3,776,263	3,247,436	3,642,016	2,153,547
	Latest/ Final*	5,468,692	5,397,649	4,852,115	6,475,981	4,086,868

\*Denotes Final or Latest SF-269 or SF-425 Submitted

\*\*Based upon Final or Latest SF-269 or SF-425 Submitted

RSA reviewed WVDRS' fiscal performance data from federal FYs 2007 through 2011. State appropriated funds comprised 100 percent of the agency's total non-federal share of expenditures over the five-year span. However, because the state appropriation has been significantly higher than the match requirement for the originally authorized award, this has allowed the agency to take advantage of available reallocation funds, increasing its award size significantly in FYs 2010 and 2011. This resulted in an increase in carryover for those years of \$6,526,850 (14.1 percent of the federal award) and \$5,207,712 (13.7 percent of the federal award), respectively. The final non-federal share for FY 2011 was less than FY 2009, which resulted in a \$23,028 MOE penalty that was withheld from the FY 2012 VR award. From FYs 2007 through 2011, WVDRS fiscal data demonstrated that all unliquidated obligations were attributable to federal funds, as the agency expended all of its non-federal share prior to the end of the fiscal year. Program income earned, comprised of Social Security reimbursement, was highest in FY 2007 at \$2,072,396, but has been relatively stable from FYs 2008 – 2011 span. Indirect costs have ranged over the time period from a low of \$4,086,868 in FY 2011 to a high of \$6,475,981 in FY 2010, which

represented the largest federal award of the five-year span due to funds gained through reallocation.

## **SECTION 3: EMERGING PRACTICES**

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While conducting the monitoring of the VR program, the review team collaborated with the WVDRS, the SRC, the TACE, and agency stakeholders to identify emerging practices in the following areas:

- strategic planning;
- program evaluation and quality assurance practices;
- financial management;
- human resource development;
- transition;
- the partnership between the VR agency and SRC;
- the improvement of employment outcomes, including supported employment and self-employment;
- VR agency organizational structure; and
- outreach to unserved and underserved individuals.

RSA considers emerging practices to be operational activities or initiatives that contribute to successful outcomes or enhance VR agency performance capabilities. Emerging practices are those that have been successfully implemented and demonstrate the potential for replication by other VR agencies. Typically, emerging practices have not been evaluated as rigorously as "promising," "effective," "evidence-based," or "best" practices, but still offer ideas that work in specific situations.

As a result of its monitoring activities, RSA identified the emerging practices below.

### **1. Geographic Information System (GIS)**

WVDRS utilizes GIS software that compiles U.S. census information along with WVDRS client data to identify potential unserved consumers with minority backgrounds resulting in administrative cost savings for its outreach efforts. The GIS integrates a large amount of data to be easily referenced in a spatial map display for WVDRS staff. WVDRS integrated GIS with its comprehensive statewide needs assessment (CSNA) to locate areas within WV where individuals with disabilities from minority backgrounds have been unserved. After identifying these specific areas, WVDRS conducts targeted outreach by mailing a brochure describing WVDRS services. WVDRS reduced mailing costs by using GIS to target sections of 10 zip codes where the odds of reaching the most potential unserved minorities by mail were the highest. WVDRS was able to reduce mailing costs from \$12,500 for all identified target areas to \$3,600 for micro-target areas. If outreach efforts had needed to be expanded to the entire state, it would have cost WVDRS \$350,000. WVDRS is exploring the expansion of GIS data to support program development and evaluation by matching client employment needs with available jobs across the state.

## **2. Student Transition to Employment Project (STEP)**

Since its inception in 2007, STEP has trained school system teachers and aides to become CRPs with WVDRS. This has enabled individuals with disabilities who are graduating from high school to receive job placement and training services from the teacher or aide who worked with them throughout their high school years. Interested teachers and aides apply to become CRPs, and complete extensive training to more fully prepare them to fulfill their role as a service provider for the state agency. Teachers and aides are matched with identified students interested in working, primarily during the summer. Initially funded by the Developmental Disabilities Council, WVDRS has funded this project since 2010 and plans to make it a permanent program. Since 2007, 84 students have become employed and 85 teachers or aides have been trained and registered as CRPs. STEP has increased service capacity and availability of job coaches in a very rural state with scarce CRP services.

A complete description of the practices described above can be found on the [RSA website](#).

## **SECTION 4: RESULTS OF PRIOR MONITORING ACTIVITIES**

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During its review of the VR and SE programs in federal FY 2013, RSA assessed progress toward the implementation of recommendations accepted by WVDRS resulting from the prior monitoring review in FY 2008 and the resolution of compliance findings from that review.

### **Observation Updates**

**Enhancing Community-Based Services:** RSA recommended that WVDRS examine the extent to which the state appropriation to build service capacity with community rehabilitation programs (CRPs) is sufficient, and consider the use of Title I funds under the establishment provisions; establish standards for CRPs and develop goals regarding performance standards of the CRPs to improve accountability and increase the quality of employment outcomes produced by CRPs; designate a school representative to the state advisory committee on CRPs to provide input on the VR service needs of the transition youth population; and utilize the comprehensive statewide needs assessment (CSNA) results for CRP needs to assess their capacity building activities on a regular basis, involving the State Rehabilitation Council (SRC) and CRP representatives.

**Update:** Based on the results of the FY 2009 and FY 2012 CSNA, a need was identified by WVDRS for additional resources to provide more CRP services statewide. WVDRS will continue to target efforts to increase service availability in the identified areas and will conduct follow-up assessments to monitor progress towards achieving its goals and eliminating all service gaps. Currently, there are 64 WVDRS-acknowledged vendors (CRPs) in the state and CRP services are available in all 55 counties. From FY 2008 to FY 2012, the number of WVDRS consumers receiving CRP services increased each year from 334 consumers to 1,243 consumers. WVDRS developed a CRP Standards Manual that all CRPs were to follow by FY 2013. In support of that effort, both monitoring and training are carried out by three positions within Field Services. Additionally, the agency examines the current and potential capacity of CRPs to provide services through CRP liaisons. External stakeholder support is provided by the SRC, CRPs, and a liaison from the WV Department of Education Office of Special Programs who serves on the state advisory committee on CRPs.

**Quality Assurance (QA):** RSA recommended that WVDRS enhance its QA infrastructure by developing a more consistent method of assessment and service record review in each district through a standardized instrument, and conducting external evaluations of CRP performance.

**Update:** WVDRS developed and implemented a standardized QA review tool that is used by all nine QA Specialists who report directly to the QA Manager at the state office to ensure uniformity of application. The QA Unit conducts QA reviews by selecting a random sample of case files in each district, and the results serve as a baseline for measuring the impact of assessments, policies, and training activities. For CRP performance evaluation, this function has been integrated within three CRP positions within field services as described above.

**Supported Employment – Extended Services (ESES):** RSA recommended that WVDRS assess the actual needs of individuals with disabilities regarding extended SE services job coaching hours and develop resources as needed to meet the demand.

**Update:** The agency has assessed the actual needs of individuals participating in the ESES program and increased program resources from \$169,000 in 2007 to the current level of \$240,000. From its review, WVDRS increased the ESES job coaching fee by \$10.00 an hour. With the increase in funding and the competitive fee in place, the agency began to allow consumers to receive up to eight hours per month without making a special request for additional hours. WVDRS will continue to fund the program at the new level appropriated by the WV legislature and will maintain effective and efficient use of ESES resources. In addition, WVDRS will monitor demand in relation to ESES resources and continue to work with consumer groups, including the WV Statewide Independent Living Council, to seek additional funding from the WV Legislature for the ESES program.

**Case Management System (CMS):** RSA recommended that WVDRS build an internal data check component to ensure timely progress through the VR process; establish the connection between the expenditures and services for an individual that calculates the expenditures by counselor and by service; and ensure that the SE status of an individual at closure is consistent with the individualized plan for employment (IPE).

**Update:** WVDRS updated its CMS to include an internal data check component that alerts field staff on cases exceeding 90-day closure timelines. The CMS is connected to the Client Authorization Payment System to improve tracking of expenditures by counselors and service categories. In addition, the CMS now links the provision of SE services with employment status at closure.

**IPE Timeline:** RSA recommended that WVDRS review the current timeline for IPE development and clarify with VR counselors the timeframe; determine whether to revise the timeline or not, inform/train VR counselors accordingly; and include an exception to the timeline based on extenuating circumstances.

**Status:** The agency's Client Services Manual now reflects a standard six-month IPE development timeline. Additionally, the Manual allows for an extension for cases with extenuating circumstances such as transitioning youth cases. Extensions are allowed for secondary school students who are determined eligible early in high school, but who need an additional assessment period to identify and plan a suitable vocational goal. All counselors and field staff have been trained on the six-month IPE timeline as well as the procedures for extensions.

**Staff Development/Continuing Education:** RSA recommended that WVDRS discuss with agency staff, including VR Counselors, whether staff continuing education needs are consistent with opportunities provided by WVDRS.

**Status:** WVDRS conducts a survey of staff continuing education needs during the annual statewide training conference. Survey results support the development of future training and

continuing education opportunities. WVDRS has been approved by the Commission on Rehabilitation Counselor Certification (CRCC) to authorize in-house training programs for continuing education credit when they meet CRCC criteria. Field staff can also request approval to attend additional training opportunities when available.

**RSA-2 Reporting:** RSA recommended that WVDRS improve the accuracy of RSA-2 reporting through assignment of expenditures to the appropriate classification category on each schedule, and through the correct utilization of the indirect cost rate to report administrative expenses on Schedule I.

**Status:** WVDRS fiscal staff received additional training, including TA from the U.S. Department of Education's Indirect Cost Group, to clarify the development and utilization of an indirect cost rate to charge indirect costs to federal programs. WVDRS changed the way it classifies and reports employees on the RSA-2, and has amended the reporting back-up documentation to show the indirect charges versus administrative charges to the VR program.

## **Compliance Findings and Corrective Actions**

There were no compliance findings from the monitoring review conducted during FY 2008.

## **SECTION 5: FOCUS AREAS**

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### **A. Organizational Structure Requirements of the Designated State Agency (DSA) and Designated State Unit (DSU)**

The purpose of this focus area was to assess the compliance of WVDRS with the federal requirements related to its organization within WV Department of Education and the Arts (WVDEA) and the ability of the WVDRS to perform its non-delegable functions, including the determination of eligibility, the provision of VR services, the development of VR service policies, and the expenditure of funds. Specifically, RSA engaged in a review of:

- the progress of WVDRS toward the implementation of recommendations related to these requirements identified in prior monitoring reports (see Section 4 above);
- compliance with statutory and regulatory provisions governing the organization of the WVDEA and WVDRS under 34 CFR 361.13(b);
- processes and practices related to the promulgation of VR program policies and procedures;
- the manner in which WVDRS exercises responsibility over the expenditure and allocation of VR program funds, including procurement processes related to the development of contracts and agreements;
- procedures and practices related to the management of personnel, including the hiring, supervision and evaluation of staff; and
- the manner in which WVDRS participates in the state's workforce investment system.

In the course of implementing this focus area, RSA consulted with the following agency staff and stakeholders:

- WVDEA Secretary;
- WVDRS director and senior managers;
- WVDRS staff members responsible for the fiscal management of the VR program;
- SRC Chairperson and members;
- Client Assistance Program director; and
- Region 3 TACE center representatives.

In support of this focus area, RSA reviewed the following documents:

- diagrams, organizational charts and other supporting documentation illustrating the DSU's position in relation to the DSA, its relationship and position to other agencies that fall under the DSA, and the direction of supervisory reporting between agencies;
- diagrams, tables, charts and supporting documentation identifying all programs from all funding sources that fall under the administrative purview of the DSU, illustrating the number of full-time equivalent (FTE) staff working on each program;
- the number of FTEs in each program, identifying the specific programs on which they work and the individuals to whom they report, specifically including:

- individuals who spend 100 percent of their time working on the rehabilitation work of WVDRS;
- individuals who perform the rehabilitation work of WVDRS and one or more additional programs/cost objectives (e.g., workforce investment); and
- individuals under WVDRS that do not work on VR or other rehabilitation within the DSU.
- sample memoranda of understanding (MOUs) and/or cost allocation plans with one-stop career centers; and
- documents describing West Virginia's procurement requirements and processes.

## **Overview**

WVDRS, the DSU for the VR and SE programs, is located within WVDEA, the DSA. WVDEA is led by a secretary appointed by the Governor to oversee six units within the Department. The secretary appoints the deputy secretary who manages the daily administrative functions of the agency. WVDRS, along with all other units, predominantly reports and communicates through the deputy secretary to the secretary.

WVDRS is the largest unit within WVDEA and is comprised of three sub-units including VR, Disability Determination Services (DDS), Independent Living-Older Blind (IL-OB). At the time of the review, WVDRS reported a total of 604 staff employed, including 378 in the VR program, 217 in DDS, and 9 in IL-OB. In the VR program, the VR State Administration Office is comprised of 81 staff and the 31 field offices comprised of 297 staff.

RSA's review of the organizational structure of the WVDRS did not result in the identification of observations and recommendations or compliance findings.

## **Technical Assistance**

RSA provided the TA described below to WVDRS related to this focus area during the course of its monitoring activities.

### **State Workforce Investment Board Agreement (SWIB)**

- In RSA's review of the SWIB, the agreement makes several references to the FY 2012 West Virginia Workforce Development System Funding Stream Report. RSA reviewed this report and found that several inaccurate references to VR Title I costs that were confirmed by WVDRS senior staff. RSA recommended the WV Workforce Liaison have input on verifying VR costs listed prior to future annual publications.

### **Local Workforce Investment Board Agreement (LWIB)**

- In RSA's review of several LWIBs, the agreements lacked details on the allocation of operating costs of the system. In addition, several of the agreements RSA reviewed did not include satellite offices within the respective LWIB region. Through on-site monitoring activities, RSA determined that cost-allocation procedures were implemented and that WVDRS was charged at a cost that was both fair and reasonable for use of both dedicated and common space. However, the allocation of costs was not identified in

review of the LWIB agreements. RSA recommended that details on the operating costs be incorporated into future LWIB agreements.

## **B. Transition Services and Employment Outcomes for Youth with Disabilities**

The purpose of this focus area was to assess WVDRS' performance related to the provision of transition services to, and the employment outcomes achieved by, youth with disabilities and to determine compliance with pertinent federal statutory and regulatory requirements.

Section 7(37) of the Rehabilitation Act defines "transition services" as a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.

In the course of implementing this focus area, RSA identified and assessed the variety of transition services provided in the state, including community-based work experiences and other in-school activities, and post-secondary education and training, as well as the strategies used to provide these services. RSA utilized five-year trend data to assess the degree to which youth with disabilities achieved quality employment with competitive wages. In addition, RSA gathered information related to the coordination of state and local resources through required agreements developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and the Rehabilitation Act, and communities of practice. RSA also gathered information regarding the TA and continuing education needs of VR agency staff, and emerging practices.

To implement this focus area, RSA reviewed:

- formal interagency agreements between the VR agency and the state educational agency (SEA);
- transition-related VR service policies and procedures;
- VR agency resources and collaborative efforts with other federal, state and local entities;
- sample agreements between the VR agency and local education agencies (LEA); and
- samples of other cooperative agreements.

To assess the performance related to the provision of transition services and the outcomes achieved by youth with disabilities, RSA reviewed WVDRS relevant data from federal FYs 2007 through 2011, describing:

- the number and percentage of youth with disabilities who exited the VR program at various stages of the process;
- the amount of time spent in key phases of the VR process, including eligibility determination, development of the individualized plan for employment (IPE) and the achievement of a vocational goal;
- the number and percentage of youth with disabilities receiving various VR services, including, among others, assessment, university and vocational training, transportation, rehabilitation technology and job placement; and
- the quantity, quality and types of employment outcomes achieved by youth with disabilities.

To provide context for the agency's performance in the area of transition, RSA also compared the performance of WVDRS with the national average of all combined state agencies.

As part of its review activities, RSA met with the following DSA and DSU staff and stakeholders to discuss the provision of services to youth with disabilities:

- WVDRS director;
- WVDRS VR counselors and transition staff;
- WVDRS transition coordinator serving as liaison with the SEA and other agencies; and
- state and local school personnel.

RSA's review of transition services and employment outcomes achieved by youth with disabilities did not result in the identification of observations and recommendations or compliance findings.

## **C. Fiscal Integrity of the Vocational Rehabilitation Program**

For purposes of the VR program, fiscal integrity is broadly defined as the proper and legal management of VR program funds to ensure that VR agencies effectively and efficiently manage funds to maximize employment outcomes for individuals with disabilities. Through the implementation of this focus area, RSA assessed the fiscal performance of the VR and SE programs and compliance with pertinent federal statutory and regulatory requirements, including cost principles, governing three components of review: financial resources, match and maintenance of effort (MOE), and internal controls.

RSA used a variety of resources and documents in the course of this monitoring, including data maintained on RSA's MIS generated from reports submitted by the VR agency, e.g., Financial Status Report (SF-269/SF-425) and the Annual VR Program/Cost Report (RSA-2). The review covered fiscal data from federal FYs 2007 thru 2011, along with other fiscal reports as necessary, to identify areas for improvement and potential areas of noncompliance.

Where applicable, RSA engaged in the review of the following to ensure compliance with federal requirements:

- the federal FY 2008 monitoring report issued pursuant to Section 107 of the Rehabilitation Act;
- A-133 audit findings and corrective actions;
- state/agency allotment/budget documents and annual federal fiscal reports;
- grant award, match, MOE, and program income documentation;
- agency policies, procedures, and forms (e.g., monitoring, personnel certifications, procurement and personnel activity reports);
- documentation of expenditures including contracts, purchase orders and invoices; and
- internal agency fiscal reports and other fiscal supporting documentation.

RSA's review of the fiscal integrity of the VR Program administered by WVDRS did not result in the identification of observations and recommendations. However, the compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

### **Technical Assistance**

RSA provided the TA described below to WVDRS related to this focus area during the course of its monitoring activities.

#### **Program Income Reporting**

- WVDRS and RSA discussed the agency's practice of supplementing the IL Part B and IL-OB funds with VR Social Security Reimbursement program income that may be transferred to the IL Part B, IL-OB, SE, or Client Assistance Programs, per VR regulations at 34 CFR 361.63(c)(2). RSA provided guidance regarding the procedure for reporting the program income transfer on the VR and IL/ IL-OB SF-425 reports.

#### **Use of Grant Funds for Conferences and Meetings**

- RSA reviewed the Memorandum to Education Grantees Regarding The Use Of Grant Funds For Conferences And Meetings, released by the U.S. Department of Education's Office of the Chief Financial Officer in June, 2012. RSA indicated that federal grant funds may be used to pay for conference fees and travel expenses of grantee employees, consultants, or experts to attend a conference or meeting if those expenses, and number of attendees, are reasonable and necessary to achieve the purposes of the grant. Additionally, grantees hosting a meeting or conference may not use grant funds to pay for food for conference attendees unless doing so is necessary to accomplish legitimate meeting or conference business. RSA also confirmed that food costs in the form of per diems, such as in the case of STEP staff that must travel throughout the state and stay overnight in hotels, is allowable.

#### **Extended Services**

- RSA provided WVDRS with TA regarding the intent of extended SE services, and that VR funds, including program income, may not be used to provide extended SE services to closed VR cases.

## **Indirect Costs**

- RSA reviewed the FY 2013 indirect cost proposal and learned that client service costs were included in the base for determining the rate. RSA provided TA that since client service costs require little administrative effort, because most of the work is processed by direct paid staff (e.g., VR counselors and Rehabilitation Assistant). As a result, the inclusion of these costs may result in an over-recovery of indirect costs from the VR program, and recommends that these costs be excluded. RSA will collaborate with the U.S. Department of Education Indirect Cost Group staff to ensure that subsequent indirect cost proposals reflect these revisions.

## **SECTION 6: COMPLIANCE FINDINGS AND CORRECTIVE ACTIONS**

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RSA identified the following compliance findings and corrective actions that WVDRS is required to undertake. Appendix A of this report indicates whether or not the agency requests TA to enable it to carry out the corrective actions. The full text of the legal requirements pertaining to each finding is contained in Appendix B.

WVDRS must develop a corrective action plan for RSA's review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed and submitted online using the [RSA website](#) within 45 days from the issuance of this report and RSA is available to provide TA to enable WVDRS to develop the plan and undertake the corrective actions.

RSA reserves the right to pursue enforcement action related to these findings as it deems appropriate, including the recovery of funds, pursuant to 34 CFR 80.43 and 34 CFR Part 81 of the Education Department General Administrative Regulations (EDGAR).

### **1. Use of VR Program Funds for Improvements to CRP Facilities**

#### **Legal Requirements:**

- Rehabilitation Act - Section 7(5), 101(a)(15), 103(a), 103(b)(2)(A), and 111(a)(1)
- VR Program Regulations - 34 CFR 361.3, 34 CFR 361.5(b)(9), 34 CFR 361.5(b)(12), 34 CFR 361.5(b)(17), 34 CFR 361.5(b)(18), 34 CFR 361.29, 34 CFR 361.48, 34 CFR 361.49(a)(1), 34 CFR 361.49(b)(1), 34 CFR 361.60(a)(1), (a)(2), and (b)(1)
- EDGAR - 34 CFR 80.22(a)(1) and 34 CFR 80.24(a)
- Federal Cost Principles - 2 CFR 225, Appendix A, paragraph C

**Background:** Since FY 2009, WVDRS made 63 “CRP Grants” to community rehabilitation programs (CRP) using VR program funds in the amount of \$4,797,088, and an additional 23 “CRP grants” with funds made available for use in the VR program under the American Reinvestment and Recovery Act of 2009, totaling \$2,223,815, for a total of \$7,020,903.

WVDRS utilizes the term “grant” due to the state procurement policy language. However, these contracts are not grants per the EDGAR definition. Due to the closing of the WV Comprehensive Rehabilitation Center in FY 2006, WVDRS entered into these contracts to expand its service capacity throughout the state. To assess the allowability of these expenditures, RSA reviewed a sample of these contracts. This finding is based on the WVDRS FY 2011 contract with Gateway Industries (Gateway), in the amount of \$551,849, for the purpose of creating an integrated work setting associated with a window parts contract with the Four Jaks corporation through the expansion of Gateway’s existing facility.

**Finding:** WVDRS improperly used the construction authority under Section 103(b)(2)(A) of the Rehabilitation Act and 34 CFR 361.49(a)(1) and 34 CFR 361.5(b)(12) to assist Gateway to build a warehouse related to a window parts contract the CRP was awarded, because WVDRS:

- did not satisfy the pre-planning requirements for the establishment, development or improvement of a CRP, including the construction of a CRP facility, because it had not adopted policies describing its use of the establishment and construction authorities as required by 34 CFR 361.49(b)(1), and did not sufficiently describe in its FY 2011 State Plan its strategies for the establishment, development or improvement of a CRP in accordance with Section 101(a)(15)(D) and 34 CFR 361.29(d);
- incurred expenditures not allowed under Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3, by using VR program funds to build a 10,200 square foot warehouse to meet deliverables of a window parts contract, none of which is used for the benefit of training individuals with disabilities served by WVDRS; and
- did not ensure the allowable federal and non-federal share meets the requirements for construction costs, in accordance with regulations at 34 CFR 361.60(a)(2).

For these reasons and as described in more detail below, the expenditure of VR program funds in support of the Gateway project was not allowable and, therefore, any non-federal funds contributed to the project by Gateway cannot be used by WVDRS to satisfy the VR program matching requirement at 34 CFR 361.60(b)(1) and 34 CFR 80.24(a).

As a recipient of federal VR funds, WVDRS must use VR funds solely for allowable activities, namely the provision of VR services and the administration of the VR program (34 CFR 361.3). To expand service capacity to VR applicants and eligible individuals, WVDRS may engage in the establishment, development, or improvement of CRPs for the purpose of providing VR services to WVDRS applicants and consumers so long as those services promote integration and competitive employment (Section 103(b)(2)(A) of the Rehabilitation Act and 34 CFR 361.49(a)(1)). This authority can include the establishment, development, or improvement of a CRP facility pursuant to 34 CFR 361.5(b)(17)(i) and 34 CFR 361.18, or under special circumstances, the construction of a CRP facility as defined at 34 CFR 361.5(b)(12).

As an organization that provides VR services, Gateway is a private non-profit CRP, as defined at section 7(5) of the Rehabilitation Act and 34 CFR 361.5(b)(9). As such, WVDRS was permitted under the VR program to expand an existing building, such as the facility at Gateway, under either the establishment (34 CFR 361.5(b)(18)(iii)) or construction (34 CFR 361.5(b)(12)(iv)) authorities if all applicable requirements were met.

Discussions with WVDRS executive management staff during teleconferences and on-site monitoring sessions revealed the agency did not identify whether the awarding of the “CRP Grants” was made pursuant to the establishment or construction provisions. Consequently, RSA must explore in this finding these provisions to determine with which requirements the Gateway expenditures were in compliance.

## **Preplanning Requirements**

To engage in activities to establish, develop, or improve a public or non-profit CRP, including the construction of a CRP facility, a VR agency must first satisfy specific pre-planning requirements:

- a. the VR agency must have adopted written policies that set forth the nature and scope of services that will be provided to groups of individuals with disabilities, and the criteria that will be used to determine the provision of those services (34 CFR 361.49(b)(1)); and
- b. the need to establish, develop or improve a CRP must have been identified in the agency's triennial comprehensive statewide needs assessment (CSNA) and the VR agency must have included in its State Plan the results of the CSNA, as well as a discussion of the goals, priorities and strategies it would use to meet that need (Section 101(a)(15) of the Rehabilitation Act and 34 CFR 361.29).

RSA reviewed whether WVDRS developed and maintained establishment policies. WVDRS provided RSA with a half-page document outlining the agency's Establishment Project Steps, followed by a call for Grant Proposals document and score sheet. The half-page document references the CSNA and identifies the need to expand CRPs, but stops short of outlining the goals and priorities, and strategies, required in the State Plan. The document also does not outline any of the specific requirements related to the establishment of a facility, staffing, or other expenditures related to the establishment, development or improvement of a CRP. As such, the policy was determined insufficient to outline the establishment process.

RSA reviewed the FY 2011 State Plan, the year in which the Gateway project was initiated, to determine whether the need to establish, develop or improve a CRP was identified in the CSNA to support the project. RSA found mention of application data and a WVDRS employee survey in the FY 2011 Attachment 4.11(a), regarding the CSNA, which indicated a strong demand for additional vocational education, work adjustment training, psychiatric/psychological services, job placement, job coaching/supported employment services, job development, job search training, vocational evaluation, vocational education, and dental services. Additionally, further review of Attachment 4.11(c)(1), regarding state goals and priorities, indicated in the fourth goal that WVDRS intended to increase the availability of job development, job coaching/supportive employment, job placement services, work adjustment training, work skills development, and life skills training within the community. However, a review of Attachment 4.11(d), the strategies section of the State Plan, simply restated the need to increase CRPs that provide job development, job coaching/supportive employment, job placement services, work adjustment training, work skills development, and life skills training within the community. This statement is vague and the attachment did not identify any specific strategies related to the establishment, development or improvement of CRPs as required by Section 101(a)(15)(D) and 34 CFR 361.29(d).

Therefore, WVDRS did not meet the pre-planning requirements necessary for engaging in activities to establish, develop, or improve a CRP. Since WVDRS did not satisfy all of the pre-planning requirements, it was not authorized to use VR funds under section 103(b)(2)(A) of the Rehabilitation Act and 34 CFR 361.49(a)(1) to establish, develop, or improve a CRP, including the construction of a CRP facility, for the Gateway project. Yet, if WVDRS had satisfied the

pre-planning requirements for the Gateway project, RSA must still determine if the implementation of the project followed the specific establishment requirements, as described more fully below.

### **Use of VR funds under the “Establishment” Authority**

As stated above, WVDRS was unable to identify whether the Gateway contract was implemented under the specific and more narrow provisions for the “establishment of a CRP facility,” or those governing “construction,” so the contract was first reviewed with respect to the establishment provisions.

In pertinent part, VR regulations at 34 CFR 361.5(b)(17) define the “establishment, development or improvement of a public or nonprofit [CRP]” to include the establishment of a facility for a public or non-profit CRP for the provision of VR services to VR consumers and applicants (34 CFR 361.5(b)(17)(i)).

To be allowable as the establishment of a CRP facility under 34 CFR 361.5(b)(17)(i), the Gateway project must have satisfied the definitional requirements of 34 CFR 361.18. In this case, the project involved the expansion of an existing building, and VR regulations at 34 CFR 361.5(b)(18)(iii) permit the use of VR funds for the expansion of an existing CRP building, provided that:

- the existing building is complete in all respects;
- the total size in square footage of the expanded building, notwithstanding the number of expansions, is not greater than twice the size of the existing building;
- the expansion is joined structurally to the existing building and does not constitute a separate building; and
- the costs of the expansion do not exceed the appraised value of the existing building.

During the on-site visit and afterward, RSA requested information to support the four tenets listed above regarding the expansion of an existing building. Through a visit to Gateway, RSA determined that the existing building was complete in all respects, and that the new warehouse component of the facility was attached structurally to the existing building. It was also confirmed through discussions with WVDRS and Gateway staff, as well as a document review, that the square footage of the existing building was 10,614 square feet, and the new warehouse added an additional 10,200 square feet, resulting in an expanded building that is not greater than twice the size of the existing building.

Regarding the costs of the expansion, RSA visited the Gateway CRP onsite and learned from the staff that the last appraisal of the existing building occurred on May 14, 1997. After the on-site review, RSA asked WVDRS to provide an appraised value of the building in FY 2011, prior to the new warehouse project, and was informed again that the agency and Gateway CRP did not conduct an appraisal in FY 2011. Therefore, since WVDRS is unable to demonstrate that the costs of the expansion do not exceed the appraised value of the existing building in FY 2011, the requirements under the establishment provisions regarding the expansion of an existing building have not been met.

## **Use of VR funds under the “Construction” Authority**

Since the Gateway project did not meet all requirements of establishment of a CRP through expansion of an existing building (34 CFR 361.5(b)(18)(iii)), RSA must assess the project to determine if it was consistent with the definition of “construction” at 34 CFR 361.5(b)(12) and all other applicable requirements. VR regulations at 34 CFR 361.49(a)(1) state that under “special circumstances,” the construction of a facility for a public or nonprofit CRP may be allowable. Specifically, examples of “special circumstances” include “a state determination that construction is necessary in a rural area because no other public agencies or private nonprofit organizations are currently able to provide vocational rehabilitation services to individuals.” In this instance, although the Gateway CRP was already in existence and providing VR services in a sheltered non-integrated setting, the expansion of its facility was intended to enable Gateway to provide new services to individuals in an integrated setting. Therefore, sufficient special circumstances existed to justify the use of VR funds for the construction of the Gateway facility.

In the event that the building expansion project constituted “construction of a facility for a public or non-profit CRP,” as defined at 34 CFR 361.5(b)(12), WVDRS must have ensured the federal share of expenditures was not more than 50 percent of the total costs for the project (34 CFR 361.60(a)(2)). Since the total cost of the project was \$551,849, WVDRS could not have used federal VR funds to pay for more than \$275,924.50 of the project costs.

The “construction of a facility for a public or nonprofit CRP” at 34 CFR 361.5(b)(12)(i) and (iv) – (vii) includes the:

- acquisition of land in connection with the construction of a new building for a community rehabilitation program;
- expansion, remodeling, alteration, or renovation of existing buildings; architect’s fees, site surveys, and soil investigation, if necessary, in connection with the construction project;
- the acquisition of initial fixed or moveable equipment of any new, newly acquired, newly expanded, newly remodeled, newly altered, or newly renovated buildings that are to be used for community rehabilitation program purposes; and
- other direct expenditures appropriate to the construction project.

The budget page included in Exhibit A of the Grant Proposal identifies the costs by category and responsible party as described in Table 6.1 below.

**Table 6.1  
WVDRS Grant Proposal, FY 2011**

<b>Line Items</b>	<b>WVDRS Federal Share</b>	<b>Gateway Donated/ In-kind Services</b>	<b>Total Cost</b>
Administration	\$0	\$14,040	\$14,040
Personnel	\$0	\$3,750	\$3,750
Engineering & plans	\$0	\$18,000	\$18,000
Furniture & fixtures	\$0	\$41,600	\$41,600
Equipment	\$0	\$22,000	\$22,000
Permits & insurances	\$0	\$11,123	\$11,123
Contracted services	\$275,000	\$125,236	\$400,236

<b>Line Items</b>	<b>WVDRS Federal Share</b>	<b>Gateway Donated/ In-kind Services</b>	<b>Total Cost</b>
Land & infrastructure	\$0	\$41,100	\$41,100

This budget page from the executed agreement represents anticipated costs at the beginning of the project, including the amount of federal and non-federal funds provided. WVDRS agreed to pay for \$275,000 in contracted services costs, which were defined as covering the overall construction costs of the warehouse structure. The \$275,000 in federal funds would comprise less than 50 percent of the cost of the project, following requirements at 34 CFR 361.60(a)(2). Gateway was to provide its share, representing non-federal funds, through the costs of administration, personnel, engineering and plans, furniture and fixtures, equipment, permits and insurances, land and infrastructure costs, and a portion of the contracted services.

WVDRS indicated during the on-site visit that it did not require Gateway to provide the match, because WVDRS was able to sufficiently match its entire federal award with non-federal funds spent within the VR program. However, the regulations at 34 CFR 361.60(a)(2) require at least a 50 percent non-federal contribution, and the non-federal funds used for the construction (or establishment) of a CRP facility are not counted toward the state's maintenance of effort.

Further review of the final quarterly Grant Expenditure Report, identifying the \$275,000 federal share of VR funds that WVDRS actually expended for the Gateway project, indicated that WVDRS paid the below costs in Table 6.2.

**Table 6.2**  
**WVDRS Quarterly Grant Expenditure Report, FY 2011**

<b>Line Items</b>	<b>Approved Grant Budget</b>	<b>Total YTD Actual Expenditures</b>
Administration	\$0	\$0
Personnel	\$0	\$0
Engineering & plans	\$0	\$0
Furniture & fixtures	\$156,000	\$156,000
Equipment	\$55,000	\$55,000
Permits & insurances	\$11,200	\$11,200
Contracted services	\$34,800	\$34,800
Land & infrastructure	\$18,000	\$18,000

These costs clearly demonstrate that the WVDRS \$275,000 federal VR expenditures were not spent in accordance with the approved budget in the signed Gateway contract.

In order to determine WVDRS' required level of federal and non-federal share for the construction of the Gateway facility, RSA must also analyze the contract expenditures to determine whether they are allowable under construction regulations. A review of the budgeted costs of the approved contract and the actual costs on which WVDRS expended federal VR funds indicated that \$74,723 of budgeted non-federal costs to be borne by Gateway were actually spent with federal VR funds, reducing the non-federal share of the project. Neither Gateway nor WVDRS provided information related to the variance in costs associated with the approved budget and the final federal VR expenditures. Therefore, based on the information provided

through the course of monitoring, it appears that WDVRs did not contribute the required non-federal share of 50 percent of the Gateway project costs and WDVRs did not meet the non-federal match requirements of construction identified at 34 CFR 361.60(a)(2).

### **VR Utilization of the CRP Facility**

The use of non-federal and federal funds under the construction authority require that VR services are provided under the State Plan to applicants for, or recipients of, the VR program (Section 111(a)(1) and 34 CFR 361.3). To determine the extent to which the new warehouse was used for the provision of VR services to WVDRS consumers, and thus satisfies the definition of a CRP at 34 CFR 361.5(b)(9) and the requirements for the establishment, development, or improvement of a CRP, including the construction of a CRP facility, at 34 CFR 361.49(a)(1), RSA reviewed the extent to which WVDRS consumers benefitted from the use of the warehouse during their participation in VR program training services.

Under the federal cost principles at 2 CFR 225, Appendix A, Paragraph C.1, a cost is allowable if it is reasonable, necessary, *and allocable* to a federal award. Under paragraph C.3.a of these cost principles, a cost is allocable to a federal award “if the goods and services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.” In this case, costs associated with the expansion of the Gateway facility were allowable under the VR program only to the extent that WVDRS and its applicants and consumers benefited from those expenditures. The amount that was allocable to the VR program was only that which was commensurate with the benefit that WVDRS applicants and consumers received from the Gateway facility while being provided VR services, not the employment of these or any other individuals in the Gateway facilities.

RSA learned from the Gateway staff during its on-site visit, and shared this information with WVDRS staff, that the individuals who work in the warehouse on the window parts contract are employees of Gateway – not WVDRS VR consumers receiving vocational training. Gateway employs approximately 50 full and part-time individuals. Due to variances in construction needs based upon seasonal changes, the need for window parts varies throughout the year. At the time of the on-site review, Gateway staff indicated 10 - 15 employees were working in the new warehouse on the window parts contract. Since two of these individuals were supervisors, approximately eight to 13 of these individuals were hired to conduct the work of the window parts contract. Of the eight to 13 individuals, Gateway staff stated that fewer than five of these employees were associated with WVDRS, and that none of these consumers had open cases at the time of the on-site visit. However, even if they did have open VR cases, these five employees were not receiving VR services as identified in Section 103(a) of the Rehabilitation Act and 34 CFR 361.48, such as work adjustment or on-the-job training, as they had already been hired on as employees of Gateway. Furthermore, Gateway staff stated that WVDRS consumers may participate in work adjustment or job readiness training. However, these services are delivered in the sheltered workshop component of the CRP, not the new warehouse. While a few of the remaining employees were former WVDRS consumers, many were not affiliated with WVDRS in any capacity. Of those few employees who were former WVDRS consumers, neither WVDRS nor the Gateway staff provided evidence that those individuals received VR services in the new warehouse as part of their VR program.

Based on the above, WVDRS and Gateway could not demonstrate that the new warehouse facility was used in the provision of services to VR applicants or eligible individuals as required by Section 111(a)(1) of the Rehabilitation Act, and regulations at 34 CFR 361.3 and 34 CFR 361.49(a)(1). Consequently, the expenditure of VR program funds for the warehouse expansion at Gateway was not in compliance with the requirements for the construction of a CRP facility, as defined at 34 CFR 361.5(b)(12). Due to the lack of benefit derived by WVDRS consumers from the provision of VR services in the expanded warehouse, the allocation of costs associated with the project to the VR program was not reasonable (2 CFR 225, Appendix A, paragraph C).

In summary, with regard to the expenditure of VR funds for the warehouse expansion of the Gateway facility, WVDRS did not satisfy the pre-planning requirements prior to engaging in such activity, including the adoption of policies describing the use of VR program funds for the establishment, development or improvement of a CRP, including the construction of a CRP facility, in accordance with 34 CFR 361.49(b)(1); nor did WVDRS satisfy the pre-planning requirements contained in Section 101(a)(15)(iv) and 34 CFR 361.29(d), because it did not sufficiently describe strategies for the establishment of a CRP, including the construction of a CRP facility, in its FY 2011 State Plan approved at the time of project implementation. Additionally, because these costs did not constitute an allowable VR service, since VR consumers did not receive VR services through the project, these expenditures were not allowable under the VR program pursuant to sections 103(b)(2)(A) and 111(a)(1) of the Rehabilitation Act, 34 CFR 361.3 and 34 CFR 361.49(a)(1). Moreover, expenditures incurred for the warehouse expansion also did not satisfy the federal cost principles at 2 CFR 225, Appendix A, Paragraph C, which require that federal funds be used for costs that are allowable, allocable, necessary, and reasonable for the federal program. Furthermore, Gateway is functioning more as an employer than a CRP, with WVDRS providing funding for the warehouse to hire individuals with disabilities, none of which are active WVDRS consumers. As a result, WVDRS has effectively provided an incentive to a private business to hire individuals with disabilities, whereas the purpose of the VR program is to provide services to individuals with disabilities so that they may achieve an employment outcome.

RSA also learned that the non-federal share of funds related to the construction of a CRP facility has not been reported on the SF-425 report, as described in the third finding of the report.

**Corrective Action 1: WVDRS must:**

- 1.1 submit a written assurance within 10 days of receipt of the final monitoring report that WVDRS will cease using VR program funds to establish, develop or improve CRPs, including the construction of CRP facilities such as those at Gateway, until all federal requirements are satisfied, and that all future contracts for the establishment of a CRP, including the construction of CRP facilities, are in compliance with federal requirements contained in Section 103(b)(2)(A) of the Rehabilitation Act, 34 CFR 361.49(a)(1), 34 CFR 361.12, 34 CFR 361.5(b)(17) and 34 CFR 361.5(b)(18). In addition, WVDRS must assure RSA that it will provide sufficient non-federal expenditures to satisfy the match requirement for those activities, as required by 34 CFR 361.60. In particular, WVDRS must assure that, to the extent that it engages in construction activities, it will provide at least 50 percent of the total costs for construction with non-federal funds; and

1.2 prior to using VR program funds for the establishment, development, or improvement of CRPs such as the construction of CRP facilities, develop and adopt policies covering the nature and scope of VR services that would be provided to WVDRS consumers under the establishment or construction authorities as required by 34 CFR 361.49(b)(1).

## **2. Internal Controls**

### **Legal Requirements:**

- VR Regulations - 34 CFR 361.3 and 34 CFR 361.12
- EDGAR - 34 CFR 80.20(a), 34 CFR 80.40(a), 34 CFR 74.22(a) and (f)

**Finding:** WVDRS is not in compliance with federal regulations at 34 CFR 74.22 and 34 CFR 80.40(a), because it has entered into contracts with a schedule of advanced payments and did not implement and monitor methods and procedures for payment that minimize the time elapsing between the transfer of funds and disbursement by the recipient (Gateway), in accordance with U.S. Treasury regulations 31 CFR 205.33. EDGAR part 74 regulations are applicable because the recipient of the federal funds is a private, non-profit entity. By advancing funds to contractors according to a fixed schedule, and not based on work performed, WVDRS has not minimized the time elapsing between the transfer of funds and the disbursement of funds.

Additionally, WVDRS is not in compliance with 34 CFR 361.3, 34 CFR 361.12, and 34 CFR 80.20(a), because it did not reconcile forward funded contracts or monitor costs charged to the project to ensure they are allocable to the VR program, and are therefore allowable VR expenses.

### **Payment Monitoring**

In regard to the Gateway project identified in Finding 1, the contract documentation indicated that funds would be provided by WVDRS to the CRP according to the below schedule of payments.

**Table 6.3**  
**WVDRS Schedule of Payments, Calendar Year 2011**

Date	Amount
March 1, 2011	\$75,000
June 1, 2011	\$125,000
September 1, 2011	\$50,000
December 1, 2011	\$25,000

A review of the Payment Methodology section indicated that the CRP would submit invoices for reimbursement of actual costs incurred during the previous quarter. However, RSA learned on-site, through discussion with WVDRS staff and a review of contract documentation, which by June 1, 2011, WVDRS had paid the CRP \$200,000 without the submission of any invoices. A review of a September 1, 2011 quarterly update further indicated that a \$71,294.75 balance remained from the original \$200,000 advance payment. A review of the line item budget categories revealed that the cost allocation per category was grossly different from the approved budget in the agreement. Additionally, the September 1, 2011 quarterly update demonstrated

that the construction did not begin until September, 2011. As described below, monthly Grant Progress reports and quarterly Grant Expenditure reports were not accompanied by invoices, as required by the contract's Payment Methodology section. Additionally, regulations at 34 CFR 74.22(f) allow for advance payments to recipients when lacking sufficient working capital; however, the advanced payment is provided for an initial period and thereafter, the recipient is reimbursed for its actual cash disbursements. Therefore, the CRP must submit invoices, and WVDRS must review and approve the invoices, before WVDRS can reimburse the CRP for allowable VR expenses. Since WVDRS did not require invoices for actual cash disbursements after the initial advanced payment, it is not compliant with 34 CFR 74.22(f).

EDGAR regulations at 34 CFR 80.40(a) require grantees to be responsible for managing the daily operations of grant-supported activities to ensure compliance with federal requirements. WVDRS does not have such monitoring activities in place, and therefore, WVDRS is unable to minimize the time elapsing between the transfer of funds and disbursement by the recipient, as required by 34 CFR 74.22(a) and U.S. Treasury Regulations at 31 CFR 205.

### **Reconciliation**

WVDRS requires CRPs to send monthly Grant Progress reports to indicate programmatic successes and challenges, as well as current monthly expenses. A review of this information indicates that Gateway did not submit any supporting documentation to verify any of the goods or services purchased, and whether they were allowable costs related to the project. Further review of these documents demonstrated that a charge went unrecorded as an expense in a given month, but surfaced as a previous charge on the subsequent monthly report. Additionally, the CRPs submitted quarterly Grant Expenditure reports that included a summation of the three monthly budget reports. However, this provided no further supporting information related to costs charged. As stated above, the approved budget line item categories displayed significantly discrepant figures from the budget approved in the original contract.

Regulations at 34 CFR 80.20(a) require a state to ensure that fiscal control and accounting procedures allow for the tracing of funds to a level that ensures their use are not in violation of applicable statutes. WVDRS indicated during on-site discussions that there is no process in place to verify that monthly costs charged to the project were allocable to the VR program, and therefore allowable VR expenditures. As indicated in Finding 1, WVDRS may not pay more than 50 percent of a construction project with federal funds (34 CFR 361.60(a)(2)). This requires WVDRS to ensure that costs charged to the minimum 50 percent non-federal share are allowable expenses under the VR program so that the federal portion will not exceed 50 percent.

As stated above, since WVDRS did not require invoices or supporting documentation for actual cash disbursements after the initial advanced payment, it is not compliant with 34 CFR 74.22(f) or 34 CFR 80.20(a), because it was unable to reconcile funds forwarded to the CRP with actual expenditures accompanied by supporting documentation before closing out the contracts.

### **Corrective Action 2:** WVDRS must:

- 2.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will implement internal controls sufficient to ensure that expenditures are traceable and compliant with federal statutes; and

2.2 develop and implement procedures to ensure the following:

- (a) fiscal controls permit the tracking of expenditures necessary to ensure that funds are used for allowable costs and not used in violation of restrictions and prohibitions of applicable statutes in accordance with 34 CFR 361.3, 34 CFR 361.12, and 34 CFR 80.20(a); and
- (b) methods and procedures for payment minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with 34 CFR 74.22 and U.S. Treasury regulations at 31 CFR 205.33.

### **3. Federal Reporting**

#### **Legal Requirements:**

- VR Regulations - 34 CFR 361.12
- EDGAR - 34 CFR 80.20(a)

**Finding:** WVDRS is not in compliance with 34 CFR 361.12 and 34 CFR 80.20(a) because it did not accurately report financial data related to the transfer of VR SSA program income to the State Independent Living Services (SILS) (IL Part B) program on the VR and IL SF-269 and SF-425 reports in FYs 2009 through 2012. Additionally, the FY 2011 SF-425 report did not include the required 50 percent non-federal share associated with expenditures of the Gateway project (see Finding 1), and FY 2012 SF-425 reports indicated negative unliquidated obligations.

A review of documentation provided by WVDRS staff demonstrated that, during FYs 2009 through 2012, the agency transferred VR Social Security reimbursement program income to the SILS program. A review of the SF-269 and SF-425 reports for H126A090073, H126A100073, H126A110073, and H126A120073 indicated the program income was not identified in Section 12 data elements as transferred. Further review of H169A090072, H169A100072, H169A110072, and H169A120072 indicated that WVDRS did not identify the program income transferred from VR to the SILS program under the “Total Federal program income earned” (line 10l) field. This program income was also not identified as disbursed in the “Program income expended in accordance with the addition alternative” (line 10n) field, or the “Unexpended program income” (line 10o) field.

WVDRS indicated during the on-site visit that it did not require the Gateway CRP to provide the match for the expansion of the CRP building, because WVDRS was able to sufficiently match its entire federal award with non-federal funds spent within the VR program. However, the regulations at 34 CFR 361.60(a)(2) require at least a 50 percent non-federal contribution for the expenditures specific to the construction project. Additionally, the non-federal funds used for the construction (or establishment) of a CRP facility are not counted toward the state’s maintenance of effort. Based upon the information provided through the course of monitoring (see finding 1), it appears that the required non-federal share of 50 percent of the Gateway project costs were not reported accurately on the SF-425 report, because the agency did not include Gateway’s contributions, and WVDRS did not expend its own non-federal funds for the non-federal share of the expansion project.

For the FY 2012 VR award (H126A120073), WVDRS reported a negative \$11,367,117 in the “Unobligated balance of Federal funds” (line 10h) data element. This resulted in a “Total

Federal share” (line 10g) entry of \$54,634,696, which is \$11,367,117 larger than the “Total Federal funds authorized” (line 10d) amount of \$43,267,579. The total federal share may not exceed the total federal funds authorized.

Federal regulations require that all recipients of federal funds must accurately report the financial results of all federally-assisted activities (34 CFR 361.12 and 34 CFR 80.20(a)). WVDRS, as a recipient of federal Title I VR funds, must comply with the requirements of 34 CFR Part 80. WVDRS’ inaccurate reporting of program income and unobligated balance of federal funds results in inaccurate FY 2009 through 2012 VR and IL SF-269 and SF-425 reports. RSA utilizes financial reports, such as the SF-425, as the basis for establishing national data trends and norms from which to compare agencies. Therefore, WVDRS’ inaccurate reporting impacts RSA’s ability to develop accurate databases from which to conduct program analyses and develop reports, as required by sections 12 and 13 of the Rehabilitation Act. By submitting inaccurate reports, WVDRS is not in compliance with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a).

**Corrective Action:** WVDRS must:

- 3.1 cease submitting inaccurate SF-425 reports; and
- 3.2 submit a written assurance to RSA within 10 days of the issuance of the final monitoring report that it will submit complete and accurate SF-425 reports to RSA.

#### **4. Program Income**

##### **Legal Requirements:**

- VR Regulations - 34 CFR 361.5(b)(20), 34 CFR 361.12, and 34 CFR 361.63
- EDGAR - 34 CFR 80.20(a) and 34 CFR 80.21(f)(2)

**Finding:** WVDRS is not in compliance with 34 CFR 361.5(b)(20), 34 CFR 361.12, 34 CFR 361.63, and 34 CFR 80.20(a) because it has unallowably disbursed program income earned in the VR program to CRPs for the provision of extended supported employment services (ESES). In addition, WVDRS is not in compliance with 34 CFR 80.21(f)(2) because it has not disbursed program income prior to requesting additional cash drawdowns from its federal VR award for FYs 2008 through 2012.

##### **A. Extended Supported Employment Services**

Discussions with WVDRS staff on-site indicated that the State of WV appropriates a limited amount of funding for ESES, and WVDRS serves as a pass-through entity to provide the funding to CRPs throughout the state to provide ESES job coaching services. Due to the limited appropriation of funding for ESES, not all individuals requiring ESES services received the amount of job coaching support necessary to meet their employment needs. To supplement the ESES appropriation, WVDRS has been utilizing VR program income to provide ESES services to consumers with closed cases, which is not an allowable use of VR funds, including program income.

As a recipient of federal funds, WVDRS is required to account for VR funds, including program income, in a manner that ensures such funds have not been used in violation of the restrictions

and prohibitions of applicable statutes, pursuant to 34 CFR 80.20(a). The disbursement of program income to providers, instead of using these funds to provide VR services, administer the VR State Plan, or transfer to the Client Assistance, SE, or SILS programs, is not compliant with VR implementing regulations at 34 CFR 361.5(b)(20) and 34 CFR 361.63. Furthermore, allowing providers to utilize VR program income to fund ESES services is not compliant with 34 CFR 361.5(b)(20).

### **B. Failure to Expend Program Income before Drawing Down Federal Funds**

WVDRS' Social Security reimbursement VR program income is received through a state treasury account from which funds are accessed. WVDRS fiscal staff executes the drawing down of federal funds and is also responsible for the payment of expenditures. The Social Security reimbursement program income is spent on the VR program, as well as transferred to the SILS (IL Part B) program per 34 CFR 361.63(c)(2). As part of the WVDRS monitoring activities, RSA reviewed the SF-269 and SF-425 reports from FYs 2008 through 2012. Discussions with WVDRS staff members on-site, and a review of SF-269 and SF-425 data, revealed that during FYs 2008 through 2012, program income accumulated and was not disbursed prior to requesting additional cash draws from the federal VR award, as required by 34 CFR 80.21(f)(2).

As a recipient of federal VR funds, WVDRS is required to: 1) have administrative procedures in place that ensure financial accountability (34 CFR 361.12), and 2) comply with the requirements set forth in 34 CFR Part 80. Regulations at 34 CFR 80.21(f)(2) require grantees to disburse program income prior to requesting additional cash payments. This means that WVDRS must disburse all program income prior to requesting a drawdown of additional VR funds from its federal award. Disbursement of program income may include the transfer of VR Social Security reimbursement program income to the Client Assistance, SE or IL programs, pursuant to 34 CFR 361.63(c)(2). Since program income has previously accumulated during the fiscal year, WVDRS was unable to ensure that program income earned during FYs 2008 through 2012 was disbursed prior to requesting additional cash payments, pursuant to 34 CFR 80.21(f)(2). RSA learned that as of March, 2012, WVDRS began disbursing program income in accordance with the EDGAR requirements.

#### **Corrective Action 4:** WVDRS must:

- 4.1 cease disbursing VR program income funds in a manner that is inconsistent with the VR implementing regulations, and cease the expenditure of VR program income for ESES services, pursuant to 34 CFR 361.5(b)(20) and 34 CFR 361.63, respectively;
- 4.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.12, 34 CFR 361.5(b)(20), 34 CFR 361.63, and 34 CFR 80.20(a), to ensure that VR program income is disbursed according to the implementing regulations on allowable VR services or the administration of the VR State Plan;
- 4.3 cease drawing down federal VR funds prior to disbursing available program income; and
- 4.4 submit a written assurance to RSA within 10 days of the final monitoring report that it will disburse all program income before requesting additional drawdowns from its federal VR award, as required by 34 CFR 80.21(f)(2).

## **APPENDIX A: AGENCY RESPONSE**

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This appendix contains the agency's response to the following:

- Section 4 – TA requests pertaining to previous RSA monitoring activities; and
- Section 6 – identification of factual inaccuracies, responses to the compliance findings, and TA requests.

### **Section 4: Results of Prior Monitoring Activities**

#### **Outstanding Recommendations**

WVDRS does not request any TA related to the recommendations identified in the FY 2008 monitoring report.

### **Section 6: Compliance Findings and Corrective Actions**

#### **1. Use of VR Program Funds for Improvements to CRP Facilities**

**Corrective Action:** WVDRS must:

- 1.1 submit a written assurance within 10 days of receipt of the final monitoring report that WVDRS will cease using VR program funds to establish, develop or improve CRPs, including the construction of CRP facilities such as those at Gateway, until all federal requirements are satisfied, and that all future contracts for the establishment of a CRP, including the construction of CRP facilities, are in compliance with federal requirements contained in Section 103(b)(2)(A) of the Rehabilitation Act, 34 CFR 361.49(a)(1), 34 CFR 361.12, 34 CFR 361.5(b)(17) and 34 CFR 361.5(b)(18). In addition, WVDRS must assure RSA that it will provide sufficient non-federal expenditures to satisfy the match requirement for those activities, as required by 34 CFR 361.60. In particular, WVDRS must assure that, to the extent that it engages in construction activities, it will provide at least 50 percent of the total costs for construction with non-federal funds; and
- 1.2 prior to using VR program funds for the establishment, development, or improvement of CRPs such as the construction of CRP facilities, develop and adopt policies covering the nature and scope of VR services that would be provided to WVDRS consumers under the establishment or construction authorities as required by 34 CFR 361.49(b)(1).

#### **Agency Response:**

- 1.1 WVDRS will submit a written assurance to RSA within 10 days of receipt of the final monitoring report that WVDRS will cease using VR program funds to establish, develop or improve CRPs, including the construction of CRP facilities until all federal requirements are satisfied, and that all future contracts for the establishment of a CRP, including the construction of CRP facilities, are in compliance with federal requirements. WVDRS will also submit an assurance that WVDRS will provide sufficient non-federal expenditures to satisfy the match requirement for those activities, as required. Additionally, WVDRS will submit an assurance that WVDRS will provide at least 50 percent of the total costs for construction with non-federal funds.

1.2 WVDRS will develop and adopt policies covering the nature and scope of VR services that would be provided to WVDRS consumers under the establishment or construction authorities as required, prior to using VR program funds for the establishment, development, or improvement of CRPs, including the construction of CRP facilities.

**Technical Assistance:** WVDRS does not request technical assistance.

## **2. Internal Controls**

**Corrective Action:** WVDRS must:

- 2.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will implement internal controls sufficient to ensure that expenditures are traceable and compliant with federal statutes; and
- 2.2 develop and implement procedures to ensure the following:
  - a) fiscal controls permit the tracking of expenditures necessary to ensure that funds are used for allowable costs and not used in violation of restrictions and prohibitions of applicable statutes in accordance with 34 CFR 361.3, 34 CFR 361.12, and 34 CFR 80.20(a); and
  - b) methods and procedures for payment minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with 34 CFR 74.22 and US Treasury regulations at 31 CFR 205.33.

**Agency Response:**

- 2.1 WVDRS will submit a written assurance to RSA within 10 days of receipt of the final monitoring report that WVDRS will implement internal controls sufficient to ensure that expenditures are traceable and compliant with federal statutes.
- 2.2 WVDRS will develop and implement procedures to ensure the following:
  - a) fiscal controls permit the tracking of expenditures necessary to ensure that funds are used for allowable costs and not used in violation of restrictions and prohibitions of applicable statutes in accordance with 34 CFR 361.3, 34 CFR 361.12, and 34 CFR 80.20(a); and
  - b) methods and procedures for payment minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with 34 CFR 74.22 and US Treasury regulations at 31 CFR 205.33.

**Technical Assistance:** WVDRS does not request technical assistance.

## **3. Federal Reporting**

**Corrective Action:** WVDRS must:

- 3.1 cease submitting inaccurate SF-425 reports; and
- 3.2 submit a written assurance to RSA within 10 days of the issuance of the final monitoring report that it will submit complete and accurate SF-425 reports to RSA.

**Agency Response:**

- 3.1 WVDRS will cease submitting inaccurate SF-425 reports.
- 3.2 WVDRS will submit a written assurance to RSA within 10 days of receipt of the final monitoring report that WVDRS will submit complete and accurate SF-425 reports to RSA.

**Technical Assistance:** WVDRS does not request technical assistance.

#### **4. Program Income**

**Corrective Action:** WVDRS must:

- 4.1 cease disbursing VR program income funds in a manner that is inconsistent with the VR implementing regulations, and cease the expenditure of VR program income for ESES services, pursuant to 34 CFR 361.5(b)(20) and 34 CFR 361.63, respectively;
- 4.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.12, 34 CFR 361.5(b)(20), 34 CFR 361.63, and 34 CFR 80.20(a), to ensure that VR program income is disbursed according to the implementing regulations on allowable VR services or the administration of the VR State Plan;
- 4.3 cease drawing down federal VR funds prior to disbursing available program income; and
- 4.4 submit a written assurance to RSA within 10 days of the final monitoring report that it will disburse all program income before requesting additional drawdowns from its federal VR award, as required by 34 CFR 80.21(f)(2).

**Agency Response:**

- 4.1 WVDRS will cease disbursing VR program income funds in a manner that is inconsistent with the VR implementing regulations, and cease the expenditure of VR program income for ESES services.
- 4.2 WVDRS will submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure that VR program income is disbursed according to the implementing regulations on allowable VR services or the administration of the VR State Plan.
- 4.3 WVDRS will cease drawing down federal VR funds prior to disbursing available program income.
- 4.4 WVDRS will submit a written assurance to RSA within 10 days of the final monitoring report that it will disburse all program income before requesting additional drawdowns from its federal VR award, as required.

**Technical Assistance:** WVDRS does not request technical assistance.

## **APPENDIX B: LEGAL REQUIREMENTS**

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This Appendix contains the full text of each legal requirement cited in Section 6 of this report.

### **Rehabilitation Act of 1973, as amended**

#### **Section 7(5)**

The term “community rehabilitation program” means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

- (A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;
- (B) testing, fitting, or training in the use of prosthetic and orthotic devices;
- (C) recreational therapy;
- (D) physical and occupational therapy;
- (E) speech, language, and hearing therapy;
- (F) psychiatric, psychological, and social services, including positive behavior management;
- (G) assessment for determining eligibility and vocational rehabilitation needs;
- (H) rehabilitation technology;
- (I) job development, placement, and retention services;
- (J) evaluation or control of specific disabilities;
- (K) orientation and mobility services for individuals who are blind;
- (L) extended employment;
- (M) psychosocial rehabilitation services;
- (N) supported employment services and extended services;
- (O) services to family members when necessary to the vocational rehabilitation of the individual;
- (P) personal assistance services; or
- (Q) services similar to the services described in one of subparagraphs (A) through (P).

#### **Section 103(a)**

##### **(a) Vocational Rehabilitation Services for Individuals**

Vocational rehabilitation services provided under this title are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including--

- (1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;
- (2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);

- (3) referral and other services to secure needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this title;
- (4) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;
- (5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;
- (6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including--
  - (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;
  - (B) necessary hospitalization in connection with surgery or treatment;
  - (C) prosthetic and orthotic devices;
  - (D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;
  - (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and
  - (F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;
- (7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;
- (8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;
- (9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;
- (10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;
- (11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;
- (12) occupational licenses, tools, equipment, and initial stocks and supplies;
- (13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such

- resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;
- (14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;
  - (15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;
  - (16) supported employment services;
  - (17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and
  - (18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

**Section 103(b)(2)(A)**

The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility. Such programs shall be used to provide services that promote integration and competitive employment.

**Section 111(a)(1)**

(a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

**VR Program Regulations**

**34 CFR 361.3**

The Secretary makes payments to a State to assist in--

- (a) The costs of providing vocational rehabilitation services under the State plan; and
- (b) Administrative costs under the State plan.

**34 CFR 361.5(b)**

**(9) *Community rehabilitation program.***

- (i) *Community rehabilitation program* means a program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:
  - (A) Medical, psychiatric, psychological, social, and vocational services that are provided under one management.
  - (B) Testing, fitting, or training in the use of prosthetic and orthotic devices.
  - (C) Recreational therapy.
  - (D) Physical and occupational therapy.
  - (E) Speech, language, and hearing therapy.
  - (F) Psychiatric, psychological, and social services, including positive behavior management.
  - (G) Assessment for determining eligibility and vocational rehabilitation needs.

- (H) Rehabilitation technology.
- (I) Job development, placement, and retention services.
- (J) Evaluation or control of specific disabilities.
- (K) Orientation and mobility services for individuals who are blind.
- (L) Extended employment.
- (M) Psychosocial rehabilitation services.
- (N) Supported employment services and extended services.
- (O) Services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome.
- (P) Personal assistance services.
- (Q) Services similar to the services described in paragraphs (A) through (P) of this definition.

\*\*\*\*

(12) *Construction of a facility for a public or nonprofit community rehabilitation program* means—

- (i) The acquisition of land in connection with the construction of a new building for a community rehabilitation program;
- (ii) The construction of new buildings;
- (iii) The acquisition of existing buildings;
- (iv) The expansion, remodeling, alteration, or renovation of existing buildings;

\*\*\*\*

(17) *Establishment, development, or improvement of a public or nonprofit community rehabilitation program* means—

- (i) The establishment of a facility for a public or nonprofit community rehabilitation program as defined in paragraph (b)(18) of this section to provide vocational rehabilitation services to applicants or eligible individuals;  
\*\*\*\*\*
- (iii) Other expenditures related to the establishment, development, or improvement of a community rehabilitation program that are necessary to make the program functional or increase its effectiveness in providing vocational rehabilitation services to applicants or eligible individuals, but are not ongoing operating expenses of the program.

\*\*\*\*

(18) *Establishment of a facility for a public or nonprofit community rehabilitation program* means—

- (i) The acquisition of an existing building and, if necessary, the land in connection with the acquisition, if the building has been completed in all respects for at least 1 year prior to the date of acquisition and the Federal share of the cost of acquisition is not more than \$300,000;
- (ii) The remodeling or alteration of an existing building, provided the estimated cost of remodeling or alteration does not exceed the appraised value of the existing building;
- (iii) The expansion of an existing building, provided that—
  - (A) The existing building is complete in all respects;

- (B) The total size in square footage of the expanded building, notwithstanding the number of expansions, is not greater than twice the size of the existing building;
- (C) The expansion is joined structurally to the existing building and does not constitute a separate building; and
- (D) The costs of the expansion do not exceed the appraised value of the existing building;
- (iv) Architect's fees, site survey, and soil investigation, if necessary in connection with the acquisition, remodeling, alteration, or expansion of an existing building; and
- (v) The acquisition of fixed or movable equipment, including the costs of installation of the equipment, if necessary to establish, develop, or improve a community rehabilitation program.

#### 34 CFR 361.12

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

#### 34 CFR 361.29

(a) Comprehensive statewide assessment.

(1) The State plan must include—

- (i) The results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State unit has a Council) every 3 years describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—
    - (A) Individuals with the most significant disabilities, including their need for supported employment services;...
  - (ii) An assessment of the need to establish, develop, or improve community rehabilitation programs within the State.
- (2) The State plan must assure that the State will submit to the Secretary a report containing information regarding updates to the assessments under paragraph (a) of this section for any year in which the State updates the assessments.

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(c) Goals and priorities.

- (1) In general. The State plan must identify the goals and priorities of the State in carrying out the program.
- (2) Council. The goals and priorities must be jointly developed, agreed to, reviewed annually, and, as necessary, revised by the designated State unit and the State Rehabilitation Council, if the State unit has a Council.
- (3) Submission. The State plan must assure that the State will submit to the Secretary a report containing information regarding revisions in the goals and priorities for any year in which the State revises the goals and priorities.

- (4) Basis for goals and priorities. The State goals and priorities must be based on an analysis of—
- (i) The comprehensive statewide assessment described in paragraph (a) of this section, including any updates to the assessment;
  - (ii) The performance of the State on the standards and indicators established under section 106 of the Act; and
  - (iii) Other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council under §361.17(h) and the findings and recommendations from monitoring activities conducted under section 107 of the Act...
- (d) Strategies.
- The State plan must describe the strategies the State will use to address the needs identified in the assessment conducted under paragraph (a) of this section and achieve the goals and priorities identified in paragraph (c) of this section, including—
- (3) As applicable, the plan of the State for establishing, developing, or improving community rehabilitation programs.

#### 34 CFR 361.48

As appropriate to the vocational rehabilitation needs of each individual and consistent with each individual's informed choice, the designated State unit must ensure that the following vocational rehabilitation services are available to assist the individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice:

- (a) Assessment for determining eligibility and priority for services by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, in accordance with Sec. 361.42.
- (b) Assessment for determining vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, in accordance with Sec. 361.45.
- (c) Vocational rehabilitation counseling and guidance, including information and support services to assist an individual in exercising informed choice in accordance with Sec. 361.52.
- (d) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce investment system, in accordance with Sec. Sec. 361.23, 361.24, and 361.37, and to advise those individuals about client assistance programs established under 34 CFR part 370.
- (e) In accordance with the definition in Sec. 361.5(b)(40), physical and mental restoration services, to the extent that financial support is not readily available from a source other than the designated State unit (such as through health insurance or a comparable service or benefit as defined in Sec. 361.5(b)(10)).
- (f) Vocational and other training services, including personal and vocational adjustment training, books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing)

may be paid for with funds under this part unless maximum efforts have been made by the State unit and the individual to secure grant assistance in whole or in part from other sources to pay for that training.

- (g) Maintenance, in accordance with the definition of that term in Sec. 361.5(b)(35).
- (h) Transportation in connection with the rendering of any vocational rehabilitation service and in accordance with the definition of that term in Sec. 361.5(b)(57).
- (i) Vocational rehabilitation services to family members, as defined in Sec. 361.5(b)(23), of an applicant or eligible individual if necessary to enable the applicant or eligible individual to achieve an employment outcome.
- (j) Interpreter services, including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services for individuals who are deaf-blind provided by qualified personnel.
- (k) Reader services, rehabilitation teaching services, and orientation and mobility services for individuals who are blind.
- (l) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services.
- (m) Supported employment services in accordance with the definition of that term in Sec. 361.5(b)(54).
- (n) Personal assistance services in accordance with the definition of that term in Sec. 361.5(b)(39).
- (o) Post-employment services in accordance with the definition of that term in Sec. 361.5(b)(42).
- (p) Occupational licenses, tools, equipment, initial stocks, and supplies.
- (q) Rehabilitation technology in accordance with the definition of that term in Sec. 361.5(b)(45), including vehicular modification, telecommunications, sensory, and other technological aids and devices.
- (r) Transition services in accordance with the definition of that term in Sec. 361.5(b)(55).
- (s) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome.
- (t) Other goods and services determined necessary for the individual with a disability to achieve an employment outcome.

#### 34 CFR 361.49

- (a) The designated State unit may also provide for the following vocational rehabilitation services for the benefit of groups of individuals with disabilities:
  - (1) The establishment, development, or improvement of a public or other nonprofit community rehabilitation program that is used to provide vocational rehabilitation services that promote integration and competitive employment, including, under special circumstances, the construction of a facility for a public or nonprofit community rehabilitation program. Examples of "special circumstances" include the destruction by natural disaster of the only available center serving an area or a State determination that construction is necessary in a rural area because no other public agencies or private

nonprofit organizations are currently able to provide vocational rehabilitation services to individuals.

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- (b) If the designated State unit provides for vocational rehabilitation services for groups of individuals, it must –
  - (1) Develop and maintain written policies covering the nature and scope of each of the vocational rehabilitation services it provides and the criteria under which each service is provided.

#### 34 CFR 361.60

- (a) *Federal share*—(1) General. Except as provided in paragraphs (c)(2) of this section, the Federal share for expenditures made by the State unit under the State plan, including expenditures for the provision of vocational rehabilitation services, administration of the State plan, and the development and implementation of the strategic plan, is 78.7 percent.  
(2) *Construction projects*. The Federal share for expenditures made for the construction of a facility for community rehabilitation program purposes may not be more than 50 percent of the total cost of the project.
- (b) *Non-Federal share*—(1) General. Except as provided in paragraphs (b)(2) and (b)(3) of this section, expenditures made under the State plan to meet the non-Federal share under this section must be consistent with the provisions of 34 CFR 80.24.

#### 34 CFR 361.63(c)(2)

Payments provided to a State from the Social Security Administration for assisting Social Security Administration assisting Social Security beneficiaries and recipients to achieve employment outcomes may also be used to carry out programs under part B of the Title I of the Act (client assistance), part B of title VI of the Act (supported employment), and title VII of the Act (independent living).

### **Education Department General Administrative Regulations (EDGAR)**

#### 34 CFR 74.22(a)

Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR part 205.

#### 34 CFR 74.22(f)

If a recipient cannot meet the criteria for advance payments and the Secretary has determined that reimbursement is not feasible because the recipient lacks sufficient working capital advance basis. Under this procedure, the Secretary advances cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter the Secretary reimburses the recipient for its actual cash disbursements. The working capital advance method of payment is not used for recipient unwilling to provide timely advances to their subrecipient to meet the subrecipient's actual cash disbursements.

34 CFR 80.20(a)

- (a) A state must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:
  - (1) Permit preparation of reports required by this part and the statutes authorizing the grant; and
  - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

34 CFR 80.21(f)(2)

- (f) Effect of Program income, refunds, and audit recoveries on payment. (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.
- (2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments for the same activity.

34 CFR 80.24

- (a) Basic rule: Costs and contributions acceptable. With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:
  - (1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

34 CFR 80.40(a)

- (a) Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

**Federal Cost Principles as cited in the CFR**

2 CFR 225 Appendix A

C. Basic Guidelines

1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:
  - a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
  - b. Be allocable to Federal awards under the provisions of 2 CFR part 225.
  - c. Be authorized or not prohibited under State or local laws or regulations.

- d. Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.
  - e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.
  - f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
  - g. Except as otherwise provided for in 2 CFR part 225, be determined in accordance with generally accepted accounting principles.
  - h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.
  - i. Be the net of all applicable credits.
  - j. Be adequately documented.
- ...
- 3. Allocable costs.
- a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.
- ...
- c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in 2 CFR part 225 may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.